

NOT YOUR PARENTS' LAW LIBRARY

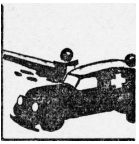
A TALE OF TWO ACADEMIC LAW LIBRARIES

Julian Aiken, Femi Cadmus & Fred Shapiro

ACADEMIC LAW LIBRARIES are, perhaps more than at any time in history, experiencing tremendous pressures which have compelled a rethinking of established norms in traditional collecting and service models. Today's pressures are mostly driven by financial and space constraints, as well as the increasingly sophisticated needs and demands of users in a rapidly shifting technological landscape.¹ The law libraries where we work – Yale (Fred Shapiro since 1987, Julian Aiken since 2010, and Femi Cadmus from 2008 to 2011) and Cornell (Cadmus since 2011) – are not insulated from these pressures. The response of these two law libraries has been a reevaluation of erstwhile acceptable processes, and the application of innovative methods and ideas, in an effort to meet the needs of diverse users in an evolving landscape. A commitment to innovation always requires a willingness to challenge established norms in the implementation of novel con-

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¹ For a stimulating exposé about the transformation occurring in academic libraries, see *Redefining the Academic Library: Managing the Migration to Digital Information Services*, Advisory Board Company, Washington, DC (2011).

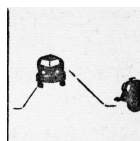


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cepts. The resultant changes will undoubtedly astonish users from past generations in many respects. These changes include the gradual but steady shift to and reliance on digital collections, application of new technologies, the repurposing of library space, and the growing availability of non-traditional services.

While law libraries are undergoing transformative changes in many different areas, the area in which the changes are probably most transformative is in collections. The two 500-pound gorillas in collection development are tighter budgets and the transition from print to digital formats. These gorillas are not just both big, they also work in tandem to clobber traditional collection ideas. The challenge libraries face is to serve the increasingly ambitious research needs of faculty and students in the face of flat or sometimes decreasing budgets and rapid changes in publishing, information formats, and patrons' use of research materials. At both Cornell and Yale Law Libraries, research needs are at the very high end of the scale and users are extremely attuned to electronic research while still often being interested in print. On the other hand, collection budgets continue to be reasonably strong. The challenge is not a battle to avoid collection starvation, but rather a need to reallocate acquisitions resources in order to maintain a world-class collection in those resources of greatest interest to patrons. To be specific, the goal is to maintain ambitious collecting of monographs, foreign legal materials, electronic resources, and even rare books.

One major way of maintaining a stellar and unique collection is to slash subscriptions to print serials. Serials are for the most part very well accepted by patrons in online versions and they are often wickedly expensive, particularly from English-language jurisdictions. Serials are labor-intensive to boot, requiring checking-in and other processing and, in the case of looseleafs, filing. In other words, print serials are perfect candidates for cancellations, especially since in most cases, even when print titles are cancelled, patrons still have electronic access to the same titles. Libraries also have to be willing to bite the bullet and rely on interlibrary loan for some categories of expensive, infrequently-used publications.



What were some of the specific results of serials cancellations? Yale and Cornell have cancelled almost all reporters from the National Reporter System, even such basic titles as the *Federal Reporter* and the *Federal Supplement*. These reporters were just too expensive and too little used in print. Patrons can use and cite PDF versions from digital equivalents on Westlaw. Digests and citators and many looseleaf services and supplemented treatises have also landed on the chopping block. Many expensive journals have been cut, especially social science journals also received by the University Library. Finally, hundreds of United States student-edited law reviews have been cancelled; these are not expensive but when the costs of processing and housing these materials are factored in, a different picture emerges. Many of these law reviews are readily available in digital formats.² In general, cancellations were done and continue to be implemented in consultation with faculty and student journals, and subscriptions that were needed by either of these constituencies have been maintained. Financial and staff considerations also come into play for evaluating the need for online research databases, some with costs approaching six figures. Law school administrators who believe that all information is now freely available on the web need to be educated that this is far from the truth for essential tools and resources of professional and academic research. Electronic serials, whether as a dual or a sole format, also necessitate staff attention to acquiring packages of journals, negotiating licenses, reflecting the e-serials meaningfully in catalogs, troubleshooting access issues, and training patrons in using the new resources. The costs and staff challenges are particularly difficult for the many foreign legal databases that patrons require.

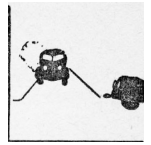
² In a recent survey of law library directors, out of thirty-seven responding libraries, only two had not embarked on significant cancellation projects. The remaining thirty-five had winnowed resources like case reporters, digests, and codes to different degrees, especially where information was deemed available in stable digital formats. Law reviews available through HeinOnline were also considered good candidates for cancellation and almost half of the respondents have cancelled them when available digitally, retaining only the top cited print journals, their institutional journals, and other journals requested by faculty. Print Cancellations Survey, Law Library Directors Listserv, June 2012.



E-books are emerging as a major factor in the library of the future.³ Publishers are now offering e-book packages which are often very costly. As these proliferate and patron demand for e-books increases, the only way to afford the packages or purchase of individual e-book titles may be to stop buying print monographs, forcing libraries to make tough choices. Do we give up the long-term preservation of print and the preferences some patrons may have for print in order to respond to the popularity of the e-format? It may be that the bold libraries of the future will be the ones who continue to collect in print after that has gone out of fashion. At major research libraries with strong historical interests by patrons, there will be more reason to maintain some duality of formats than at most other libraries.

Patron demand is moving libraries into a number of other new collection development directions, including such things as purchasing online access to individual articles or other documents; obtaining data sets of statistical information; paying document retrieval services to obtain court documents; and paying for research assistance at archival facilities. Beyond that, collection development can be conceptually expanded even further, encompassing patron-initiated acquisitions, scan-on-demand services, collaborative collections with other libraries, digitization of library materials, institutional repositories, even the curation of links to free web resources. Some of these new directions are more services than what is traditionally thought of as collection development, some may be more appropriately paid for and staffed outside the library, but all need to be considered as libraries reexamine their budgets, organization, and roles.

³ As this article is being written, the Yale and Cornell Law Libraries are experimenting with a different kind of e-book collecting. In a pilot program, both libraries are subscribing to digital titles from the OverDrive platform. The content is generally popular rather than professional or scholarly, but the goal is to gain experience with e-books and find out about patron use and level of interest with the e-book format through this experiment. Lexis publishing has also announced that it will be venturing into the e-book market on this platform. www.lexisnexis.com/media/press-release.aspx?id=1335290703893930.



*General Montgomery ("Monty"),
the Yale Law Library's therapy dog.*

In terms of patron services, both libraries have ventured where some academic law libraries have not trodden before. A radical and groundbreaking service the Yale Law Library implemented in spring 2011 was investing in a holistic approach to student services by circulating a dog as part of its collection during periods of high stress, such as the weeks leading up to exams or bar finals.⁴ Yale law students were able to spend time with a certified therapy dog, Monty, for thirty-minute periods. The director of the library stated in a message to students, "We hope that making a therapy dog available to our students will prove to be a positive addition to current services

⁴ Other academic law libraries and law schools – George Mason University and the University of San Francisco, for example – have followed suit, tapping into community resources such as the local SPCA to bring in dogs and puppies for stress relief.

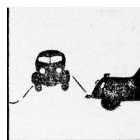


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offered by the library. It is well documented that visits from therapy dogs have resulted in increased happiness, calmness, and overall emotional well-being.” In addition to his stress-reducing abilities, Monty represented a statement of intent by the library: that it was serious about meeting the interests and needs of its users. The provision of a therapy dog was seen as a natural extension of the library’s innovative and positive approach to its patrons, and created another avenue for the library to interact directly with students and cultivate face time. This helped to solidify traditional librarian roles while providing a pioneering service which students embraced as invaluable. The reaction of students to Yale Law Library’s therapy dog program can be summarized by an email received from a student who participated: *It makes me feel like a real person and not just a law student.* It is this kind of innovative approach to library services that will help libraries remain valuable and relevant to their patrons in times of spectacular change. The law library at Cornell also introduced the therapy animal concept to the law school by collaborating with Cornell Companions, an established volunteer community program coordinated by the Cornell Veterinary School, to bring in therapy llamas and dogs to the law school for stress relief.

Some law libraries are recognizing that the more hospitable and attractive library space is, the more usage occurs. The thinking is that libraries are not just simply print repositories of materials rarely used by patrons. Space usage is gradually changing, with less-used materials moved to high density storage facilities and an increased emphasis on collaborative and even in some instances recreational spaces in the library, like game rooms with Ping-Pong and pool tables, features which are often popular with students.⁵ The law library at Cornell, for example, has a squash court which enjoys con-

⁵ The College of William and Mary after its 2006 renovation put a game room in the library. The library director remarked that “the improvements go beyond practical issues. The Wolf Law Library presents a very comfortable and inviting atmosphere with six lounge areas, extensive use of wood paneling, and cork floors that reduce noise of foot traffic.” Paul Hellyer and James S. Heller, *A New Library for America’s Oldest Law School*, 12 AALL Spectrum 167 (2008).



siderable use by students and faculty.⁶ It is also not unusual at the law libraries at Yale or Cornell to find non-traditional items available for check out. Patrons can borrow, for example, bicycles, soccer balls, soccer goals, phone chargers, umbrellas, iPads, e-readers, cameras, popular fiction, in addition of course to the expected print legal materials and even a therapy dog. DVD and audio book collections have also become increasingly popular and sought after.

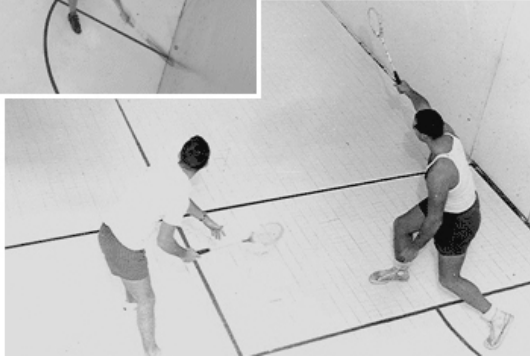
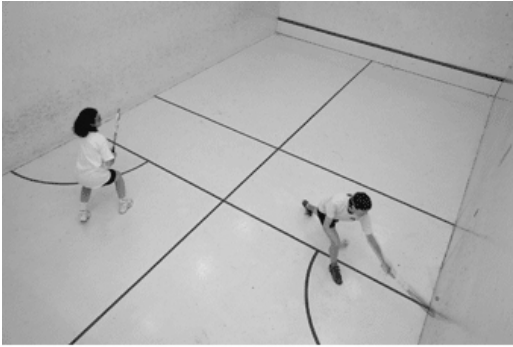
Law libraries today are pushing the boundaries of collaborative opportunities with peer institutions at the local, regional, national and even international levels. This is definitely a response to the stark reality that no single library can accomplish it all. With decreasing budgets and increasing publisher costs, coupled with sophisticated and expensive user demands, libraries are exploring and successfully adopting non-traditional models of collaboration. One such example of this transformative model of collaboration is the 2CUL project between Cornell and Columbia University Libraries. The name evolved from the joint acronyms of both institutions and has explored collaboration not only in the area of collections but also in research and technical services. Of particular interest is the sharing of the services of a subject specialist librarian between both libraries. This initiative provides an indirect benefit to the law libraries and interdisciplinary scholars of both institutions through access to more extensive non-law materials and resources, and it could provide a blueprint and a model for academic law libraries.⁷

⁶ Interestingly enough, Lewis Morse, a Cornell Law Librarian, introduced a squash court to the law library in the 1930s, a move that would be considered radical even by today's standards. An avid squash player, he believed a squash court to be as important to legal education as a moot court room. He considered the physical fitness of the students essential for their mental alertness and acuity. Due to this unique library asset, the Circulation Desk at one time provided students with both treatises and towels.

⁷ A survey of the usefulness of the 2CUL project generated a healthy response from the faculty queried. When asked about the negative impact that the off-site location of the librarian had on services, nine out of the ten respondents said there was no negative impact, and praised the availability and responsiveness of the librarian. One person lamented the inability to personally visit with the librarian as she/he had done in the past. When asked about the benefits of the shared mod-



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The Cornell Law Library's squash court.

Collaborative activity centered on traditional consortial models – cooperation of interlibrary loan and unmediated borrowing of print resources – continue to thrive. Libraries are also responding to the need to preserve and share important and unique collections through open access digital initiatives and massive digitization efforts. Some law schools, including Cornell and Yale, have launched digital repositories preserving the scholarship of faculty and making these materials openly accessible to researchers. These efforts by libraries to preserve and make information widely available and accessible in digital formats are fraught with road bumps and collisions with groups asserting copyright become inevitable.⁸

el, six respondents commented that the association with Columbia was a benefit to them now or would be in the future. Contact with Columbia colleagues, and access to a huge scholarly collection of materials, were cited as benefits. *Did you know? Early Indication of 2CUL Success*, Cornell University Library Research and Assessment Unit, Ithaca, NY, November 2011.

⁸ HathiTrust, a digital and preservation partnership of research libraries and institu-

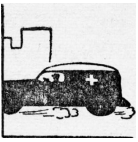


As academic law libraries continue to face the inevitability of a rapidly changing landscape which include a new breed of digital users with sophisticated technological needs, it remains to be seen what libraries will look like in years to come. It is certain that libraries as we know them today will have changed, but to what extent? Will the changes be as radical as some have predicted with libraries becoming devoid of print collections and shifting to solely digital formats with library space invaded by other academic units, and librarians becoming totally irrelevant because patrons have mastered the intricacies of online research?⁹ This is a highly unlikely state of affairs for several reasons: Publishers, fearing a loss of control and revenue, continue to wrestle with finding the right models for institutional lending of e-books, with some major publishers going as far as refusing to sell e-books to libraries;¹⁰ the exponential nature of

tions, established to preserve, scan, and digitize public domain and in-copyright materials (with permission) or in limited circumstances within copyright law, was sued together with five big research libraries by the Author's Guild and authors groups for a venture HathiTrust had deemed to be within the rights of libraries under fair use provisions of copyright law. www.chronicle.com/article/In-Authors-Suit-Against/128973/. A year later on October 10, 2012, ruling in favor of the defendants, Judge Harold Baer, Jr. of the Southern District of New York wrote, "I cannot imagine a definition of fair use that would not encompass the transformative uses made by Defendants' MDP and would require that I terminate this invaluable contribution to the progress of science and cultivation of the arts that at the same time effectuates the ideals espoused by the ADA." www.scribd.com/doc/109647049/HathiTrust-Opinion.

⁹ In May 2011, the Taiga Forum, a think tank of Associate/Assistant University Librarians from large institutions across the country, published its third set of "Provocative Statements," regarding future challenges to academic libraries and, as the librarians put it on their website, "intended to provoke conversation rather than predict the future." The Taiga Forum suggested, amongst other things that, within five years, the primary purpose of books would be decoration.

¹⁰ Penguin, for example, withdrew from the library e-book market then recently reinserted itself very cautiously, opting for a pilot program with two New York City public libraries. Under this pilot, e-books will not be available for loan until six months after release. Macmillan, after also refusing to make its books available in the library market, recently announced that it is now developing a pilot program for lending e-books. For a detailed exposition of the current state of e-book lending in libraries, see David O'Brien, Urs Gasser, and John G. Palfrey, *E-Books*



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information growth continues to require the expertise of library professionals to arrange, curate and finesse discovery tools for the retrieval of materials regardless of format; generational differences and varying comfort with technology persist with library users; and lastly, the library as a space will always be needed to fulfill the study and collaborative needs of users.¹¹ An ability to remain adaptable and to anticipate the evolving needs of users in a dynamic environment will continue to be key for libraries to remain relevant, and even to survive, in the 21st century; vital to this endeavor will also be an institutional commitment to risk taking, sustained creativity, and innovation.



in Libraries: A Briefing Document Developed in Preparation for a Workshop on E-Lending in Libraries, Berkman Center Research Publication No. 2012-15 (July 1, 2012). See also the August 2012 report of the American Library Association on eBook Business Models for Public Libraries, americanlibrariesmagazine.org/sites/default/files/EbookBusinessModelsPublicLibs_ALA.pdf.

¹¹ Futurist speaker Thomas Frey observes, "People who think libraries are going away simply because books are going digital are missing the true tectonic shifts taking place in the world of information. Libraries exist to give us access to information" www.futuristspeaker.com/2012/03/future-libraries-and-the-17-forms-of-information-replacing-books/.